

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES, *et al.*,

Plaintiffs,

vs.

GOOGLE LLC,

Defendant.

No: 1:23-cv-00108-LMB-JFA

**JOINT MOTION TO COMPLETE FACT DEPOSITIONS
AFTER THE CUT-OFF OF FACT DISCOVERY**

PURSUANT TO Rule 16(b)(4) of the Federal Rules of Civil Procedure and Local Civil Rule 16(B), Plaintiffs and Defendant jointly move to modify the scheduling order (ECF No. 1428) regarding the completion of the four fact depositions listed below. The grounds for granting this relief are as follows:

1. The court rules provide that a scheduling order “may be modified only for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4); *accord* E.D. Va. Civ. R. 16(B) (“good cause” required to modify schedule). Generally, a showing of “good cause” to modify the scheduling order requires showing “that the deadlines cannot reasonably be met despite the party’s diligence.” *Cook v. Howard*, 484 F. App’x 805, 815 (4th Cir. 2012) (unpublished *per curiam*) (citations omitted); *accord* Fed. R. Civ. P. 16, 1983 Adv. Comm. Notes (the movant must show that the current deadlines “cannot reasonably be met despite the diligence of the party seeking” the modification). Moreover, the Court must consider, *inter alia*, “the length of delay and its potential impact on judicial proceedings.” *Roe v. Howard*, 2017 WL 3709088, at *1 (E.D. Va. June 30,

2017). The parties submit that good cause exists to extend the fact discovery cut-off to allow completion of the four depositions now at issue.

2. The parties have identified these four individuals as having potential testimony that may be used at the remedies trial. As previously disclosed (ECF No. 1492 at 2 n.1), pursuant to an agreement among the parties, the parties each disclosed on July 21, 2025 additional potential fact witnesses for the remedies trial, including those listed below. The parties promptly sent deposition notices for each of these four depositions on July 21 and July 22.

3. The parties have met and conferred with these deponents and each other to obtain mutually available dates for these depositions, which are shown in the chart below. These depositions precede expert discovery depositions and the latest of the previously scheduled fact depositions.

<i>Deponent</i>	<i>Date</i>
Luke Lambert (third-party)	August 5
Grant Whitmore (third-party)	August 6
Bryan Rubin (Google)	August 13
Sam Greenfield (Google)	August 15

4. The completion of these depositions after the fact discovery cut-off will not interfere with expert discovery, disrupt the remainder of the schedule, or delay the remedies trial.

WHEREFORE, the parties respectfully request that the Court grant this relief. A proposed order is submitted herewith.

WAIVER OF ORAL ARGUMENT:

The parties waive oral argument on this procedural motion.

JOINTLY SUBMITTED this 29th day of July 2025:

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